

Museum of New Mexico System

Collections Policy

INTRODUCTION

Collections care is one of the fundamental responsibilities of the Museum of New Mexico System (MNMS):

The mission of the MNMS is to collect, preserve, study, interpret and present objects and historical sites of cultural significance while serving as an accessible educational resource for its multi-cultural audience.

The MNMS serves the people of New Mexico as the primary steward of its cultural heritage while it presents an active forum for changing ideas and concepts. This mission is carried out through research, exhibitions, conservation, publications, educational programming and libraries that serve New Mexico's residents, tourists, students and scholars.

To meet this trust and obligation, the MNMS has promulgated this Collections Policy. The purpose of the policy is to set forth those principles, standards and rules that govern the MNMS's stewardship of collections held in its care for the people of New Mexico. In 2000, the American Association of Museums accredited the four museums together as the Museum of New Mexico (MNM). As accredited, each museum strives to meet current professional standards of collections care, acquisition and use within the context of the ethical canons of the museum field.

This document amends the MNM Collections Policy approved by the Museum of New Mexico Board of Regents (Board of Regents) May 20, 1999, revised and approved by the Board of Board of Regents July 26, 2002.

The language used in the following amendments is intended to reflect the reorganization of the Department of Cultural Affairs (DCA) as adopted by the 2004 legislature and signed into law by Governor Bill Richardson on February 28, 2004. The new language reflects continued governance of the MNMS's collections, from each of the four museums under the authority of the Board of Regents to accept or deny acquisitions. New Mexico statutes grant the Board of Regents policymaking responsibility, and it is the duty of the staff of the MNMS to execute such policy through procedural process.

Definitions:

MNMS includes: Museum of International Folk Art (MOIFA), Museum of Indian Arts and Culture/Laboratory of Anthropology (MIAC), New Mexico Museum of Art (NMMoA), Palace of the Governors/New Mexico History Museum (POG/NMHHM), Museum Resources Division (MRD), New Mexico State Monuments (MNMS) and Office of Archaeological Studies (OAS).

MNMS Collecting Divisions include the museum divisions that currently hold collections that are subject to the Policy herein, under the governance of the Board of Regents. Those collecting divisions are at the Museum of International Folk Art, Museum of Indian Arts and Culture, New Mexico Museum of Art, and Palace of the Governors/New Mexico History Museum.

By definition, a Collecting Division has a professional staff with the ability to safely store, document, preserve, curate and protect the objects, art works, and archival materials that comprise the cultural legacy for the people of the State of New Mexico.

MNMS Code of Ethics: The MNMS has a Code of Ethics applicable to all its employees and volunteers. This Code of Ethics includes specific statements concerning collections, research, and reproductions based on the applicable laws referred to herein. The MNMS Code of Ethics also addresses issues of Conflict of Interest in the areas of disclosure, confidentiality, personal collecting, loans of objects by employees, dealing by staff, acceptance of gifts and appraisals that are not necessarily addressed in this Policy but pertain to how collections are received by the MNMS.

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1. STEWARDSHIP OF THE COLLECTIONS

The collections are the enduring assets that distinguish the four Museums of the MNMS from other cultural and educational institutions. The collections hold the heritage of many communities in perpetual trust and connect our Museums to the art, culture, and history of the peoples of New Mexico and the world community. The Museums direct their efforts and resources to preserve collections that reflect the values, tastes and conventions of New Mexico's diverse communities.

The four Museums of the MNMS serve primarily as repositories for artistic, cultural, educational and historic collections that relate to the state's cultural heritage. The collections of the MNMS are entrusted to the governing authority of the Board of Regents which is appointed by the Governor of the State of New Mexico. The Board of Regents determines the four Museum's missions and sets policy for accomplishing the objectives of the MNMS.

The MNMS's stewardship of the collections entails the highest trust and the presumption of permanence, care, documentation and accessibility. However, as situations and policies change, it is sometimes necessary to move an item from one accessioned collection to another, to alter the status of an object within the collections, to deaccession an object from the collections, or to exchange items between institutions.

The MNMS attributes importance, meaning, and value to its collections through educational programs, exhibitions, public forums, published documents, and scholarly research. The meanings of collections change through time and may reveal the attitudes of the original makers, meanings held by the people who first used an object, the knowledge of collectors, and the understandings of scholars who study the objects. Finally, the types of objects collected reflect the changing attitudes of the Museum itself.

2. AUTHORITY TO MANAGE THE COLLECTIONS

The Board of Regents empowers the four Museum Division Directors of the MNMS with the authority to administer the Board of Regents' policies, including each Museum's collections and programs. The following policies outline in detail the processes for legally gaining title to objects and accomplishing related actions for the collections.

The Board of Regents reserves the right to pass final judgment on all motions concerning the acquisition of new objects for the collections. The process for bringing motions concerning the collections to the Board of Regents begins in each Museum's Collections Committee. Motions concerning acquisitions, de-acquisitions, and transfers come to each Museum Division Director through their Collections Committees. Each Museum Division Director approves or rejects those proposals and then forwards the approved proposals to the Board of Regents.

The Board of Regents delegates to each Museum Division Director the authority to lend items from the collections to other institutions and to borrow items for educational, exhibition, and research purposes. Staff motions for in-loans and out-loans go through the Collections Committee to the Museum Division Director, who has final authority to approve or deny all loans. Each Division Director delegates authority to certain staff to bring objects covered by temporary transfer forms into the Museum pending the creation of formal loan agreements or acquisition documents.

3. COLLECTIONS COMMITTEES

These policies clarify the roles, authority, and interactions of three distinct categories of collections committees:

1. Museum Collections Committees (MCC), organized within each of the four Museums of the MNMS (NMMoA, MIAC, MOIFA, and POG/NMHHM), have the responsibility to recommend actions concerning all collections-based issues related to that division. The Museum Division Director chairs the committee, or appoints a chair, approves or disapproves recommendations and forwards them to the Board of Regents for action.
2. MNMS Collections Committee (MNMSCC), a representative assembly of museum professionals, reviews appeals of each Museum Collections Committee actions, exceptions to policy, MNMS-wide collections issues, and special loans. The committee forwards motions for action through the appropriate Museum Division Director for presentation to the Board of Regents or Chair of the MNMS Collections Committee.
3. The Board of Regents' Collections Committee (RCC), organized at the President's discretion, reviews museum-wide collections issues, special loans, and exceptions to policy. The committee forwards motions for action to the Board of Regents.

3-A. Museum Collections Committees

Museum Collections Committees are the administrative bodies that formulate recommendations concerning changes in status, deaccessions, exchanges, gifts, loans, purchases, conservation, transfers and other related matters. The committees are structured to draw upon the professional expertise of the museum staff and to create a series of checks and balances between committees and levels of authority. These relationships ensure that actions involving the collections meet the mission statement of the museum and the appropriate criteria for each action.

A typical process for passing recommendations affecting collections is as follows: Recommendations are proposed by a curator, or other person with a demonstrated interest, to the Museum Collections Committee. The Museum Division Director then forwards recommendations to the Board of Regents for final approval.

The Museum Collections Committees may propose the following actions to the Board of Regents:

1. accessions to the collections (gifts and purchases)
2. internal transfers within the MNMS collections
3. deaccessions

4. exchanges with institutions (outside of the Department of Cultural Affairs)
5. special loans

Each collecting Museum Division of the MNMS shall have a Collections Committee composed of curators, collections staff, and administrators. Meetings of MCCs are held on a regularly scheduled basis. The Museum Division Director or designated appointee chairs the committee and the Registrar presents agendas detailing each proposed action. Decisions by each Collection Committee shall be made by majority vote. Decisions are recorded by the Registrar in the minutes of each meeting. Minutes are saved for archival purposes. Museum Division Directors forward recommendations to the Board of Regents.

Collections staff have the responsibility of maintaining records of the collections, and with the input of curators and conservators, they implement decisions, manage storage facilities, and organize the physical arrangements for loans.

Curators are responsible for acquisitions, research, and care of the collections under their care. Curators initiate written proposals for all gifts, purchases, changes of status, transfers, deaccessions, exchanges, and loans, within each MCC. Proposals must include adequate information for the collections committee to reach a decision.

After approval by the Board of Regents, the Museum Registrar shall complete an appropriate instrument of conveyance properly executed by the owner and the Museum. Registrars may begin to prepare the instrument of transfer before Board of Regents approval. However, the transfer of title is not complete until the Museum Division Director has signed the transfer, after Board of Regents approval has provided authority to complete the transaction.

Title to all objects acquired by each Museum of the MNMS for the permanent collections shall be obtained free and clear without restrictions as to use or future disposition, unless such restrictions are approved by the Board of Regents pursuant to 4-E. Conveyances should include an adequate description of the object, the precise conditions of transfer, and detailed provenance of the object warranting legal origins and ownership. Each Museum shall keep all conveyances.

3-B. The MNMS Collection Committee

The MNMS Collection Committee forwards recommendations related to system wide collections policy issues and potential conflicts of interest to the Board of Regents. Members of MNMS Collection Committee are the Division Directors, the Chief Conservator, each division registrar, and one curator or collections professional from each museum who is appointed by the Division Director. The Chair of the MNMS Collections Committee schedules and conducts meetings, presents the agenda, records actions and minutes, and presents system wide recommendations to the Board of

Regents. The Chair is a Museum Division Director who serves a one year term. Matters related to specific museum collections are presented by the appropriate Museum Division Director.

4. MOTIONS PROPOSING ACCESSIONS

4-A. Accessioning Items into the Collections

Each Museum of the MNMS may accept gifts or purchase items for the permanent collection if the objects meet all of the following criteria:

1. support the MNMS mission statement
2. support research, education, or exhibition uses
3. have clear and legal title
4. comply with laws and treaties
5. do not contradict policies on culturally sensitive materials
6. the status of copyright ownership has been reviewed
7. do not unnecessarily duplicate other objects in MNMS collections
8. there is adequate storage and/or conservation can be provided

4-B. Requirements for Transfer of Title

Donations

The MNMS requires the following for charitable gifts to the collections:

1. a written document signed by the donor defining the donation
2. a warrant guaranteeing compliance with applicable laws and defining the provenance of an object
3. Board of Regents approval for accepting the item
4. verification that the object is physically in the possession of the Museum or that the donor has relinquished control of the property
5. an instrument such as a completed deed of gift transferring title of the object to the Museum

Purchases

The MNMS requires the following for purchases for the collections:

1. a written document such as bill of sale or required documentation
2. a warrant guaranteeing compliance with applicable laws and defining the provenance of an object
3. Board of Regents approval for accepting the item

4. verification that the object is physically in the possession of the Museum or that the seller has relinquished control of the property
5. an instrument such as a completed purchase order and copy of check.

4-C. Warrant of Provenance

The MNMS requires that all donors and vendors warrant that a proposed acquisition has been legally obtained, i.e., is in compliance with all local, state, federal, and international laws; that it has not been imported or exported in violation of any laws or of the UNESCO conventions; and that there are no liens placed on the object. To warrant such compliance and formalize the provenance of each object, donors and vendors should provide the Museum with a letter or document explicitly defining the provenance of the property. This document should state the name of the maker if known, how the donor or vendor acquired title to the object, information concerning copyright, and any history of previous owners. The donor or vendor shall provide the Museum with copies of previous transfers of title to establish the provenance of the object. Questions concerning the provenance of a proposed gift shall be addressed by the Museum Collections Committee. See Section 17 of this document which addresses archeological materials and antiquities.

4-D. Final Approval

Negotiations and correspondence for all proposed gifts and purchases must include a statement to the donor or vendor that the proposal is not finalized until the Board of Regents has given its approval.

4-E. Conditions of Gifts

Each Museum shall strictly observe all conditions, limitations, or restrictions approved by the Board of Regents. Acknowledgments approved by donors shall be considered a condition of the gift. Specific limitations and restrictions for the archaeological collections are covered under Sections 14 through 19 of this policy. In special cases, the Board of Regents may consider gifts offered with limitations or restrictions. These conditions shall be stated clearly in the instrument of conveyance and made part of the accession records.

4-F. Fractional or Partial Interest Gifts

The fractional or partial interest gift of an object is one in which the Museum is given a partial interest and the donor retains the remaining fractional interest. The Museum may accept partial interest gifts only if the donor intends to donate full, unrestricted interest in the property to the Museum before the earlier of: a) the date that is ten years after the date of the initial fractional contribution, or b) the date of the death of the donor, as specified by federal law in the Pension Protection Act of 2006 (Public Law 109-280). The fair market value of such contributions shall be determined the lesser of: a) the fair market

value of the property at the time of the initial fractional contribution, or b) the fair market value of the property at the time of the additional contribution.

Recommendations for partial interest gifts shall be proposed by the Museum Collections Committee. The Museum Division Director forwards the recommendation for a partial interest agreement to the MNM Collections Committee. The MNM Collections Committee will review the request and recommend actions. If the request is approved by the Board of Regents, the Museum Division Registrar shall prepare a Deed of Partial Interest Gift between the Museum and the donor.

In accordance with IRS regulations, the Museum must maintain annual custody for the portion of the year that reflects the percentage of the Museum's ownership in the gift. The donor may leave the object in the Museum's custody for the donor's portion of the year, which must be treated and recorded as a loan for that time.

The Museum and the donor each shall be responsible for the care, maintenance, and insurance of the property while in their custody and shall consult with each other concerning the use and treatment of the property.

4-G. Special Acquisitions

Each Museum recognizes that certain original and early furnishings and features in buildings that are part of the MNMS have become historic and shall be cataloged as part of the permanent collection. These items may be used as functional furnishings in public areas of the museum or in private offices used for meetings with the public. The Museum Division Director maintains responsibility for their use as furnishings, regularly re-evaluates their physical condition, and initiates reviews by the Museum Collections Committee to determine the appropriateness of public use for these objects. Such works from the collection may not be displayed in private use areas or employee offices.

4-H. Year-End Donations

The last meeting of the Board of Regents for any given year is in November, with the next meeting taking place in January of the following year. Federal law permits a donor to complete a gift transaction until midnight, December 31st of any given year, enabling the donor to file a tax deduction for that year. To be in compliance with federal law, the Board of Regents shall authorize the Division Director of each of the four Museums in the MNMS to accept gifts on behalf of the Board of Regents during the period of time between the Board of Regents' last meeting in November and midnight, December 31st.

Each Division Director of the MNMS shall appoint an acting representative to accept gifts on behalf of the Board of Regents during this end-of-year period if the Museum Division Director is unable to carry out this duty. Each Museum Division Director or acting representative shall consider the recommendations of the Museum Collections

Committee and the MNMS Collections Committee to determine if a proposed gift complies with the MNMS's accession policies before giving approval.

4-I. *Visual Artists Rights Act of 1990*

The MNMS recognizes the rights of artists as described in the *Visual Artists Rights Act of 1990* (17 USC Section 106A) ("VARA"). VARA applies to all works of visual art created on or after June 1, 1991 and to works created before said date provided title to the work has not been transferred from the artist as of the effective date. The MNMS recognizes the right of attribution (to having the artist's name associated with the work) and the right of integrity (protecting the work against destruction). Any planned destruction of deaccessioned material must be witnessed and made in compliance with VARA and may require a prior signed waiver by the artist.

VARA also covers permanently installed visual arts created after June 1, 1991. All contracts for permanently installed works of art in Museum buildings must address the issues referenced above. The Museum Division must sign a standardized agreement with an artist for a site-specific installation. This agreement should define the artist(s) involved, where the work will be installed, the duration of the project, what will happen to the work when the project is complete, any plans or preliminary drawings that will affect the finished work, remuneration, and a method for resolving any disputes that may arise.

4-J. Promised Gifts

A promised gift is a documented intent by a donor to give a specific gift to the Museum Division at a future time. There may be instances in which the Museum Division may consider a promised gift. These gifts are subject to the same approval process at the time of the gift.

4-K. Acquisitions with Potential Conflict of Interest

Potential conflicts of interest are outlined in the MNMS Code of Ethics. All recommendations for gifts or purchases to the collection from individuals with an actual or perceived conflict of interest shall clearly set forth such conflict and shall proceed from the Museum Collections Committees, to the MNMS Collections Committee, and then to the Board of Regents for final approval. Individuals with a perceived or actual conflict of interest include, but are not limited to, DCA employees, elected and or appointed State of New Mexico officials, members of the MNMS Foundation Board and the Board of Regents.

4-L. Estate Gifts

Gifts through estates to the MNMS shall be directed to the Chair of the MNMS

Collection Committee for the Committee's consideration. These gifts are subject to the same approval process outlined in section 3-A above at the time the gift is made.

4-M. Internal Transfer

Permanent collection objects may be internally transferred from one collecting Museum Division to another collecting Museum Division of the MNMS or the Department of Cultural Affairs without a change of status or deaccessioning. For internal transfer, the following conditions must be considered.

1. The item continues to support the MNMS mission statement.
2. The transfer would not contradict policies on culturally sensitive materials.
3. The item is intellectually more appropriate or better supports the collecting policy and priorities of another museum.
4. The item has storage or conservation needs that can be better provided more efficiently by another State museum.

5. RECOMMENDATIONS FOR DEACCESSIONS AND FOR CHANGES IN STATUS

Deaccessioning and the process of deaccessioning are designed to keep the MNMS's identity clear and focused. When properly used, deaccessioning can assist the Museum Division in defining its mission, planning for the future, and improving the collections.

Conscious of its responsibilities to donors and ever mindful of its obligations to the public, the MNMS will follow rigorous procedures in selecting objects for disposal, sale, or trade. From curatorial recommendation to final Board of Regents approval, each work is to be carefully scrutinized and its relevance to the Museum Division's present and future properly weighed. Disposal through sale must follow the exact guidelines of state regulations in order to ensure that they are to be offered to the largest possible audience. Members of the Board of Regents, MNMS staff, and members of their immediate families are prohibited from bidding during such sales.

Recommendations to deaccession shall be made by a Museum Collections Committee, or other person with demonstrated interest, to the Museum Division Director who shall then forward the recommendation to the Board of Regents, following thorough staff review and research, including donor involvement, if necessary. If applicable, funds generated by the sale of such property shall be placed in a separate, restricted account designated solely for the deaccessioning Museum Division's purchase of collection material.

5-A. Reasons for Deaccessioning Objects from the Collections

An accessioned object may be deaccessioned from the MNMS's holdings based on one or more of the following conditions:

1. does not support the MNMS mission statement
2. does not support the collecting policy of the individual Museum Division
3. does not have clear and legal title
4. does not comply with laws and treaties
5. contradicts current policies on culturally sensitive materials
6. a Native American tribe has requested repatriation of human remains, funerary objects, or sacred objects of known lineal descent associated with that tribe. See sections 14, 15 and 16.
7. unnecessarily duplicates other objects in MNMS collections
8. requires storage or conservation resources that cannot be provided by the MNMS
9. is damaged beyond repair or conservation and/or poses a threat to other collection materials or creates a health hazard

5-B. Disposition of Deaccessioned Objects

A deaccessioned item shall not be returned to the donor. A deaccessioned item can only be:

1. transferred or gifted to other public entities
2. exchanged for other objects with a federal, state, municipal, tribal or public educational institution whose mission is relevant to the deaccessioned item. The recipient shall provide appropriate care and access to the object. Any necessary appraisals shall be conducted by a mutually agreed upon independent appraiser. The cost shall be equally divided by the two entities.
3. sold at public auction or consigned
4. repatriated in accordance with NAGPRA policies, UNESCO treaties, and current MNMS policy on culturally sensitive materials
5. destroyed, via witnessed destruction if the object cannot be repaired, conserved, sold, or if it presents a physical danger to life or property.
6. exchanged with an artist or an artist's estate (who may also have been the donor), if this benefits or improves the MNMS's collections.

6. MOTIONS PROPOSING LOAN AGREEMENTS

The MNMS may borrow or lend works according to the following provisions.

6-A. Process for Approving Loans

Each Museum Division Director of the MNMS approves all requests for loans for their division on behalf of the Board of Regents. Museum Collections Committees evaluate requests for loans that are proposed in regular meetings following the criteria outlined in this policy.

Once the request is approved, the museum registrar prepares the loan documents and

makes arrangements for completing the loan. Loan agreements must contain all necessary curatorial information on the item(s) being lent, conservation and condition information, any special requirements for storage or display, and information regarding shipping arrangements. The registrar is responsible for negotiations with the borrower/lender in accordance with appropriate procedures, conditions, and any special instructions of the curator, conservator, Museum Division Director, and/or Museum Collections Committee.

6-B. Out-Loans

Each Division of the MNMS may transact loans for scholarly and educational purposes with non-profit institutions such as museums, libraries, and universities. All necessary conservation treatments must be completed before an object may be loaned.

Out-loans will be made for a term of one year or less, unless the Museum's Collections Committee decides otherwise. No objects shall leave any Museum Division without clear, visible accession or catalogue numbers, detailed condition reports, proof of insurance, and photographs documenting physical condition at the time the loan is processed. Condition reports and documentary photographs shall be updated upon return of the object.

The criteria for evaluating out-loan requests and duration of the loan shall include, but not be limited to the following:

1. the availability of the object
2. the ability of the Museum Division's staff to process the loan with sufficient lead time (6 months - 1 year in advance)
3. the condition of the object as assessed by an appropriate conservator and/or Museum Division registrar
4. the feasibility of any conservation treatments to be completed before packing and travel
5. the value of the object to the collection, and the potential impact of damage or loss to the collections
6. the appropriateness of the request to the nature of the object
7. the positive impacts of the loan
8. the ability of the borrowing institution to provide best museum practices in the care, handling, security, environmental conditions, and lighting of the object, as well as any specified conditions.

The borrower shall:

1. provide an AAM/ICOM facilities report documenting current conditions in the facility

2. assume all financial liabilities incurred by the loan, which may include (but are not limited to) loan fees, insurance, photography, conservation, framing or mounting, crating, packing, shipping, couriers, installation, and return

6-C. Short Term In-Loans

The MNMS may borrow works from other institutions and private individuals for one year or less. The loan may be renewed annually for no more than five years; after five years the loan automatically becomes a Special Agreement loan (6-E) and is handled by the provisions of that policy. Curators bring recommendations for in-loans to their appropriate Museum Collections Committees. The recommendation may be approved if the loan:

1. stipulates the conditions and term of the loan
2. does not impose undue burdens upon the facilities, resources, or staff
3. does not contradict any of the criteria for acquisitions

6-D. Loan Acknowledgement

The MNMS shall abide by the lender's directions as to the credit and acknowledgements in exhibition labels, publicity/promotion materials, education materials and publications.

6-E. Special Agreement In-Loans

Special Agreement In-Loans have terms of five years or more, generally involve major collections on loan to the MNMS, and fall outside the standard MNMS loan agreement.

The terms of Special Agreement In-Loans shall include provisions for additions, deletions, record keeping, reports, review, care, conservation, insurance, credits, loans to third parties, termination restrictions, and reproduction rights.

Special Agreement In-Loans must be approved by the Board of Regents. Recommendations for such loans are proposed by curators, evaluated by both the Museum Collections Committee and the MNMS Collections Committee, and forwarded by the Museum Division Director to the Board of Regents for approval. The Museum Division Director usually negotiates the terms of Special Agreement In-Loans. A Special Agreement In-Loan will be considered if it:

1. does not impose undue burdens upon the facilities, resources, or staff, and
2. does not contradict any of the criteria for acquisitions.

6-F. Inter-Division Loans

The MNMS holds a single collection housed in individual Museum Divisions and

managed by curators and collections personnel. Inter-division Loans or the temporary transfer of objects from one MNMS Division to another for use in exhibitions, education, or research shall be negotiated between the respective divisions. Inter-division loans are made for a period of one year or less and are renewable. Collections may be transferred from one MNMS Division to another along with the original accession records. The transferring division shall retain copies of accession records.

6-G. Special Agreement Out-Loans

Special Agreement Out-Loan requests may include loans to commercial, for-profit organizations or any other entity not specified in this policy.

Special Agreement Out-Loans must be approved by the Board of Regents. Recommendations for such loans are proposed by curators and/or Museum Division Directors, evaluated by both the Museum Division and MNMS Collections Committees, and forwarded to the Board of Regents for approval.

6-H. Loans from Staff or Regents

All recommendations for loans to the Museum Division from staff or Regents must be approved by the Board of Regents. These recommendations proceed from the division to the MNMS Collections Committee and then to the Board of Regents for approval.

6-I. International Loans and Exhibitions

Recommendations for International Loans and Exhibitions proceed as with domestic loans. Because international loans involve the laws of two or more different countries, there may be differences among laws. Curators and registrars must be especially diligent when dealing with international loans, whether incoming or outgoing. Further, such proposals must include the following:

1. The Museum Division registrar must be alerted as soon as discussions begin concerning an international loan proposal. The registrar will work collaboratively with the museum curators, conservators, risk management staff, and/or insurance agent to accomplish the loan.
2. The Museum Division must hire professional customs brokers to handle the intricacies of multiple sets of international laws.
3. It may be necessary to physically hand carry fragile and/or valuable works through customs to the final destination. Similar arrangements must be made upon return.
4. All international loans must be insured against acts of terrorism. Coverage must be carried by either the State of New Mexico insurance policy or the borrowers policy.

6-J. Loans to the Governor of New Mexico

At the Governor's request, some works from the MNMS's collection may be made available for temporary loan to the Governor and First Lady's or First Gentleman's primary office in the New Mexico State Capital and public spaces in the Governor's Mansion. Loans for a renewable term of one year are made at the written recommendation of the curator of the lending division. Such loans must be reviewed annually at the end of the calendar year by the lending Museum Division's registrar, conservation, and the curator of the Governor's Gallery. They must be approved by the lending Museum Division Director and Collections Committee. Works may be recalled and replaced with other items on thirty days' notice and must be returned to the MNMS at the end of the Governor's term of office.

The MNMS may not lend collection items to any government offices other than those specified above.

6-K. Loans to Professional Service Providers

The Museum Division Registrar is responsible for facilitating loans of collection materials to professional service providers who are authorized to provide services such as conservation, packing and crating, shipping, framing, and photographing.

7. GENERAL CONSIDERATIONS FOR THE COLLECTIONS

The following conditions govern the collections and their use.

7-A. Accession Numbers

All collecting Museum Divisions shall employ a unique catalogue and/or accession number for tracking and documenting the collections. Each Museum Division Registrar shall employ a unique numbering system for tracking and documenting incoming and outgoing loans. Each Museum Division of the MNMS shall establish and maintain reference tools related to the storage of collections that include an inventory, location records, and an automated collection management system of all accession and catalogue information.

7-B. Threats, Losses and Damage to Collections

In the event of damage, thefts, accidental losses, or vandalism of MNMS collections, the incident must be reported immediately to the responsible Museum Division Director and Disaster Response Team. The Museum Division Director will determine what appropriate agencies, owners, and authorities are to be contacted. A prompt written report of the circumstances surrounding the damage, loss, or disappearance shall be provided by

the Division Disaster Response Team. Release of information to the media and public will follow the protocols of the Department of Cultural Affairs.

7-C. Access to the Collections

The collections of the MNMS exist for the benefit of present and future generations. Therefore, the public shall be granted reasonable access to stored collections, by appointment, on a non-discriminatory basis for the purposes of research and other educational uses. To safeguard the physical integrity of its collection, museum staff may limit the size of groups to storage and collection areas. Users may be liable for any damage caused to collections.

Access to culturally sensitive collections will be governed by the provisions stated in Section 15 within this policy.

Collections areas shall be monitored by professional staff at all times. Museum staff should work in pairs in the storage vaults whenever possible. Outside maintenance personnel, outside contractors, and researchers must be accompanied at all times in collections vaults.

7-D. Fair Use

It is the purpose of the MNMS to provide information and education through exhibitions, research, publications, and educational outreach. The MNMS is committed to complying with all applicable laws regarding intellectual property. This commitment includes the full exercise of the rights granted to users of copyrighted works under the "Fair-Use" provision of federal copyright law.

The MNMS will use due diligence in determining the copyright status of objects brought into the collections through gift, transfer, purchase, exchange, or the lending of objects for exhibition. Staff will secure permissions and will credit the copyright holder in all media.

Appropriate staff shall have knowledge of current copyright law and its application. Included in this knowledge should be the four criteria contained in *17 U.S.C. Section 107*. These four criteria are:

1. the purpose and character of the use, including whether such use is of commercial nature or is for non-profit educational purposes
2. the nature of the copyrighted work
3. the amount and substantiality of the portion used in relation to the copyrighted work as a whole
4. the effect of the use upon the potential market for or value of the copyrighted work

This law applies to the usage of intellectual property originating in the United States and may not be applicable in other countries.

The MNMS recognizes the importance of acknowledging scholarly research and rejects any form of plagiarism.

7-E. Facilities Rental and Commercial Media Use of Museum Collections and Facilities

Use of MNMS collections and facilities for commercial purposes shall be allowed only when carefully controlled and monitored by the Museum Division staff. A contractual agreement for commercial use of MNMS collections and facilities must be obtained from the Museum Division Director. Proof of adequate liability insurance with a fine arts rider is also required, as specified by State Risk Management. Permission to use collections and facilities will be withdrawn by the appropriate Museum Division Director if deemed necessary. Appropriate fees and conditions of use will be assigned.

Use of MNMS facilities must not result in permanent alteration to grounds or structures. Facilities must be returned to their prior condition after use, and the user will be responsible for all cleaning and repairs, all security costs, and additional staff time if required. Visitor access shall not be disrupted.

Commercial media productions must not distort the purposes or historical integrity of the Museum and its collections. The permitted use of an object, exhibit, or a structure does not represent an endorsement by the State or the MNMS.

7-F. Photography

The MNMS reserves the right to restrict photography or video. Photography or video is not permitted in exhibition and collection areas of the MNMS. Exceptions may be granted by the designated Museum Division Director.

The MNMS retains all rights to publication of all photographic images and objects in its collections. Requests for reproductions for research purposes and for permission to publish reproductions of collections must be made in writing to the Registrar of the appropriate Museum Division, who will present their proposal to the Division's Collections Committee. The Registrar will then convey the decision to the applicant.

Possession of photographs of collection items owned by the MNMS does not imply that the Museum Division necessarily holds copyright. It is the responsibility of the applicant to obtain written permission from any third party copyright holders and provide a copy to the appropriate Division Registrar.

The collections will only be photographed by MNMS staff or a professional photographer hired by the Museum Division. The Museum Division may provide, for a reasonable fee, photographic reproductions of items in its collections. Only Museum-approved photographs may be used for publication purposes.

Special permission to photograph collections may be granted by the appropriate Museum Division Director to individuals for research purposes only. Photographs made by researchers may not be used for publications or other forms of reproduction.

8. CONSERVATION

It is MNMS policy to provide preventive conservation measures to the collections by maintaining safe, stable environments for storage and exhibition. This policy is implemented through strategic and systematic evaluation and improvements in structures, storage, and collections to prevent deterioration.

The primary responsibility for the ongoing care and management of the collections lies with the respective Museum Division, while conservation activities within the MNMS are the responsibility of the Conservation Department. The Conservation Department is committed to the best practices and highest professional standards of the “Code of Ethics and Guidelines for Practice” as set forth by The American Institute for the Conservation of Historic & Artistic Works (AIC).

All MNMS staff and volunteers must be trained before they handle collections. The Conservation Department (Museum Resources Division) will provide training to staff, researchers and volunteers before they are allowed to handle or assist with the care of collections, and may decide that in specific instances, the care must be handled only by conservation staff.

8-A. Threats and Preventive Measures

The MNMS staff plans and executes activities, services, and programs to ensure the safety, security, and protection of the collection. To accomplish this MNMS will provide a safe, secure and appropriate environment to guard against the following sources of deterioration:

1. abrasion, distortion, shock, vibration, inadequate space, improper support, and handling
2. theft, vandalism and acts of terrorism
3. fire and smoke
4. water damage
5. seismic disturbance
6. insects, rodents and other small mammals, birds, and reptiles

7. dust, gasses, off-gassing, and particulate pollutants
8. radiant energy in the form of infra-red light, ultraviolet light, and high-intensity visible light
9. temperature extremes and fluctuations
10. relative humidity extremes and fluctuations
11. and, other threats and adverse conditions.

8-B. Corrective Conservation Measures

Corrective conservation measures will be taken when the conservator and appropriate Museum Division staff find that the treatment will ensure the preservation, historic, aesthetic and value of the object. Because corrective conservation may alter some existing quality of an object, it is undertaken only after careful consideration of the proposed project. Proposals for conservation must be authorized by the appropriate Museum Division staff and the Chief Conservator or designate.

8-C Research and Analysis

The MNMS staff and the Conservation Department undertake research and analysis to further the understanding of the collection, to aid in its preservation and conservation, and to contribute to the advancement of professional knowledge.

8-D. External Conservation Services

When it is necessary to utilize external conservators to meet the needs of the MNMS, the appropriate Museum Division staff and the Conservation Department will work collaboratively to identify a professional contractor best suited to the specific project.

8-E. Disaster Response

The Chief Conservator or designee shall collaborate with the MNMS Divisions in developing Disaster Response Plans and in keeping them current. The Chief Conservator or designee will be a member of each MNMS Division disaster response team.

9. EXHIBITIONS

All exhibitions at the MNMS shall be part of a planned, systematic program of ongoing, temporary, and traveling exhibitions thematically relevant to the goals and purposes of the MNMS.

9-A. Approving Exhibitions

Each exhibiting division of the MNMS plans and implements exhibition programming through its individual committees. Proposed exhibitions take into account the mission of

the division, service to the MNMS's audiences, potential for outreach, impact on the community, and potential for building collections.

9-B. Evaluations

The MNMS will ensure that the evaluation process is ongoing and integrated into the exhibition program. There will be an effort to engage in evaluation to determine the effectiveness, impact, and measure of success of the exhibition program.

9-C. Traveling Exhibitions

Traveling exhibitions organized by the Divisions of the MNMS may be circulated to other qualified institutions. In general, exhibits should be designated to travel during the planning stage so that they may be designed, conserved, and constructed for travel. Participation fees may be charged in part to offset the costs.

9-D. Sponsorship and Support

The MNMS benefits from the generous support of sponsors, donors and lenders. However, the content and educational intent of an exhibition, program or publication shall not be influenced, controlled, dictated, or restricted by any sponsor, donor or lender. The integrity of the MNMS must not be compromised nor the content be prejudiced.

10. NON-ACCESSIONED OBJECTS

The MNMS may acquire items that are not accessioned into the collections. These items may include general educational materials, research materials, study collections and other similar objects as designated by the individual division of the MNMS. As non-accessioned objects they are not subject to the same restrictions regarding usage, care, or disposal as those objects that are part of the collection. Such objects should be clearly designated as non-accessioned items and should be segregated from the collections.

Non-accessioned items must be declared as such on the gift agreement. In such cases, donors shall be informed in advance that their gifts are for the benefit of the MNMS but will not be accessioned into the collection.

11. ARCHIVES AND LIBRARY COLLECTIONS

The MNMS may acquire materials such as books, manuscripts, photographs and other ephemera as special collections. The individual museum division's collections committee determines what is accessioned or non-accessioned material.

12. ABANDONED PROPERTY AND EXPIRED LOANS

Every item in the custody of the MNMS should be covered by a signed gift agreement, bill of sale, an active loan agreement, or a temporary transfer document. However, objects sometimes become disassociated from their paperwork; appropriate paperwork is not completed; or a lender cannot be located after the loan period ends. Every effort shall be made on the part of the Museum Division's registrar to ensure this does not happen. If these situations occur, and if MNMS ownership cannot be established (or the original owner or heirs cannot be located), an item will be considered abandoned property as defined by the *Abandoned Cultural Properties Act* (§§ 18-10-1 to 18-10-5, NMSA 1978, as may be amended).

Under this law the MNMS may take possession of property deemed abandoned. Property that falls within this category includes, but is not restricted to, property left unclaimed by the owner for the length of time prescribed by the *Abandoned Cultural Properties Act*, property for which the owner cannot be located, and property found within the collections where MNMS ownership cannot be demonstrated.

Such property shall be reported to the appropriate Museum Division registrar who will implement procedures prescribed by the *Abandoned Cultural Properties Act* to gain clear title to the property. Once clear title is established, the cultural property will go through the appropriate procedures to determine its final designation or disposition.

If the individual museum division wishes to accession the object or artwork into the permanent collection, normal procedures for accessioning an object will be followed including presenting it to the Board of Regents for approval. If the individual museum division does not wish to accession it into the collection, the object should be disposed of in a manner similar to deaccessioned materials. Funds generated by the sale of such property shall be placed in a separate, restricted account designated solely for the individual Museum Division's purchase of collections or for collections care.

13. AUTHENTICATION, IDENTIFICATION, INFORMATION AND APPRAISALS OF PRIVATELY HELD OBJECTS

The MNMS staff may not offer opinions as to the authenticity of objects not owned by the MNMS. The MNMS staff may not offer opinions to the public concerning the value or price of any object.

The public may request that staff provide informal identifications and information concerning privately held objects. The staff may offer informal identifications and information as part of the MNMS educational mission.

This policy protects the MNMS from lawsuits claiming misrepresentation, disparagement (injurious falsehood), or defamation.

**14. REPATRIATION UNDER THE *NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT (NAGPRA)*,
*25 U.S.C.3001-3013 (1990)***

The *Native American Graves Protection and Repatriation Act* (NAGPRA) requires that museums, under certain circumstances, repatriate to lineal descendants, federally recognized Indian tribes and Native Hawaiian organizations, cultural items defined as Native American human physical remains, associated funerary objects, unassociated funerary objects, objects of cultural patrimony, and sacred objects. NAGPRA defines each of these categories, and the Code of Federal Regulations (CFR 43CFR10) publishes regulations implementing NAGPRA.

The MNMS complies with all federal laws and regulations regarding repatriation. Requests for consultation and/or repatriation under NAGPRA shall be addressed by the collection holding division. Recommendations for deaccession for the purpose of repatriation by the MNMS museum division will be forwarded to the MNMS Collections Committee as per Section 3B of this policy. Appeals of repatriation decisions by the MNMS may be made to the federal Native American Graves Protection and Repatriation Review Committee, as specified by federal law and regulations. The federal NAGPRA review committee serves in an advisory capacity to the National Park Service, Department of Interior. The NAGPRA review committee can help mediate a given case, but if disagreements persist, the matter may go to federal court.

Consultations that do not end in repatriations can result in agreements concerning collections access and care.

15. CULTURALLY SENSITIVE MATERIALS

The MNMS recognizes the variable nature of culturally sensitive materials. Different segments of the population hold varying social and religious viewpoints, and value systems change through time. As a result, the permanent collections of the MNMS may contain items that one or more of its constituents may deem culturally sensitive. The MNMS recognizes that culturally sensitive materials may also enter the museum temporarily for purposes of exhibition, publication, research, consultation or similar activities.

The MNMS will comply with the NM Administrative Code, Executive Order No. 2005-003, Sensitive Materials Policy, Draft DCA Tribal Consultation Policy (revised 12-2-05), and any subsequent federal and state laws, executive orders, regulations and rules pertaining to culturally sensitive materials. Each claim will be treated on a case-by-case basis with the appropriate Museum Division. Claims made under this provision shall be presented to the Museum Division Director who will notify the Secretary of the Department of Cultural Affairs.

In order to address potential issues or particular situations that may arise, the Secretary of the Department of Cultural Affairs shall appoint a Committee on Sensitive Materials from among the staff of the MNMS. The committee shall have a minimum of three members and shall convene as needed. The committee on sensitive materials is separate from the MNM Collections Committee and serves in an advisory capacity to the Secretary of the Department of Cultural Affairs. The Museum Division Director shall forward the request along with the Sensitive Materials Committee's recommendation, if available, to the Board of Regents.

The Committee on Sensitive Materials shall not become involved in issues pertaining to the repatriation of materials under NAGPRA (see Section 14).

16. HUMAN PHYSICAL REMAINS

All human physical remains held by the MNMS shall be treated as de facto sensitive materials. The MNMS shall discourage the further collection of human physical remains; however, it will accept human remains as part of its mandated responsibilities as the State Archaeological Repository. At its own initiation or at the request of a federally recognized tribe or other appropriate group, the MNMS may accept human remains to retrieve them from the private sector and, furthermore, may accept human remains with the explicit purpose of returning them to a federally recognized tribe or other appropriate group. The MNMS shall not place human physical remains on exhibition.

17. ACCEPTANCE OF ARCHAEOLOGICAL MATERIALS AND THE ARCHAEOLOGICAL REPOSITORY

The MNMS is the official repository for all archaeological collections assembled under the terms of the *Cultural Properties Act* (§§ 18-6-1 to 18-1-17, NMSA 1978), unless other arrangements are deemed more appropriate as specified in regulations governing the Cultural Properties Review Committee. All items will be accessioned, preserved, curated, and treated as MNMS collections.

The MNMS Division receiving archaeological materials that are not part of a curation agreement with a private, federal, or state entity shall rigorously research the provenance of an object prior to acquisition, make a concerted effort to follow the *AAM's Standards Regarding Archaeological Material and Ancient Art* to obtain written documentation with respect to the history of the object, including export and import documents, and require sellers, donors, and their representatives to provide all available information and documentation.

Beyond the requirements of federal and state law, the MNMS shall not acquire any object that has been illegally exported from its country of modern discovery or the country where it was last legally owned. The MNMS requires documentation that the object was out of its probable country of modern discovery by November 17, 1970, the date the

UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property was signed. For objects exported from their country of modern discovery after November 17, 1970, the MNMS shall require documentation that the object has been or will be legally exported from its country of modern discovery, and legally imported into the United States.

The MNMS shall respectfully and diligently address ownership claims to antiquities and archaeological material. Each claim, whether based on ethical or legal considerations should be considered on its own merits.

Prior to being accessioned into the collections of the appropriate MNMS Division, the Office of Archaeological Studies is responsible for the care and security of recovered collections.

When entering into agreements for the acceptance or care for archaeological repository collections, the MNMS may stipulate that the treatment, and disposition of collections include adequate consultation. Curation agreements may include provisions for specific terms and fees. The MNMS may also enter into curation agreements with tribal, Federal, and private agencies. Materials brought into the MNMS through agreements outside the scope of the *Cultural Properties Act* may be accessioned into the collections or may be held in trust under curation agreements. All such material is subject to MNMS policies.

18. LOOTED/STOLEN PROPERTY

The MNM Divisions do not intentionally collect art works or materials that have unclear title or provenance, except under special circumstances such as materials confiscated under state, federal, and international laws and treaty obligations. If through research or if it is brought to the attention of the Division that these materials are in the collection appropriate steps will be taken to comply with all laws pertaining to stolen property.

The MNMS is aware of its ethical responsibility for material it borrows and the possibility of claims being brought against a loaned object in its custody. Should a borrowed object have unclear title, the Museum Division Director shall request provenance information and will determine whether additional research is needed before accepting the loan. The MNMS will assist in any claims against a work on loan.

19. NAZI-ERA PROVENANCE

Acquisitions

In recognition of the extent and significance of Nazi looting of cultural property, the MNMS is committed to following the guidelines established by the American Association of Museums when acquiring works of art that may have changed ownership in Europe during the Nazi era (1933-1945). The MNMS will take all reasonable steps to

resolve the Nazi-era provenance status of objects before acquiring them for collections - whether by purchase, gift, bequest, or exchange. This will include requesting provenance information from the donor, dealer or executor of the estate and conducting any other research as appropriate and necessary.

If the Museum Division proceeds with the acquisition, currently available provenance information will be made public by posting the object information and provenance on the AAM Nazi-Era Provenance Internet Portal (www.nepip.org), where the museum's other relevant collection objects will be posted. By participating in the Portal, museums fulfill their responsibility under the Guidelines and Recommended Procedures adopted by the museum field to make Nazi-Era provenance information accessible.

As time and resources become available the MNMS will identify covered objects currently in its collection and make public through the Nazi-Era Provenance Internet Portal available object and provenance information. The MNMS will establish priorities for conducting further research to determine if any objects have been unlawfully appropriated during the Nazi Era without subsequent restitution.

The MNMS will make accessible all permanent collection objects for further research, examination, and public review and accountability. If an entity requests information about an object's provenance relating to the Nazi-Era, the MNMS will provide whatever information is in the object's file.

All claims of ownership will be dealt with in an open, serious and respectful manner. Each claim will be considered on its own merits.

Loans

The MNMS is aware of its ethical responsibility for the material it borrows and the possibility of claims being brought against a loaned object in its custody. When borrowing a work of art from a private lender, which may have changed ownership in Europe during the Nazi Era, the MNMS will request provenance information with particular regard to the Nazi Era and will determine to the best of its ability if any additional research is needed before borrowing the object. The MNMS will assist in any claims made against a work on loan.

ACKNOWLEDGMENTS

I would like to thank the combined efforts of the staff MNMS Collections Committee and that of the Board of Board of Regents for their considerable assistance in drafting, developing, and adopting this Collections Policy. Representing the Board of Regents were Mrs. Earle Bursum of Socorro and Mr. Paul Rainbird and Mr. James Leopold, both of Santa Fe. Representing the staff, through a special *ad hoc* committee, were Mr. Charles Bennett, Mr. Jon Freshour, Dr. Joyce Ice, Ms. Claire Munzenrider, Dr. Sarah Schlanger, Mr. Paul Smutko, Ms. Louise Stiver and Dr. Joseph Traugott.

The primary reference publication was *A Legal Primer on Managing Museum Collections* by Marie C. Malaro, Smithsonian Institution Press (Second Edition, 1998). Finally, I would like to thank Mr. William Holmes, who drafted and assembled those initial policies back in 1981-82.

Thanks to you all.

Thomas A. Livesay, Director
Museum of New Mexico
May 1999

Revisions to the Collections Policy passed by the Board of Regents of the Museum of New Mexico in 1999 resulted from the appointment of a new Committee on Sensitive Materials in December 2000. That group recognized that Section 11, Culturally Sensitive Materials, did not sufficiently distinguish between objects subject to repatriation under the *Native American Graves Protection and Repatriation Act* (NAGPRA), and all other sensitive materials under the care of the Museum of New Mexico. On July 26, 2002, the Board of Board of Regents of the Museum of New Mexico approved revisions of the policy to reflect more accurately those distinctions.

I would like to thank the members of the Committee on Sensitive Materials, who helped to clarify the policy: Anita McNeece and subsequently J'Laine Newcombe, Chair; Duane Anderson; Antonio R. Chavarria; Thomas E. Chávez; Robin Farwell Gavin; Dale P. Kronkright; Timothy D. Maxwell and Joseph Traugott. Thanks also to Eric Blinman and Charles Bennett.

Thomas H. Wilson, Director
Museum of New Mexico
August 2002

Museums are always in motion and the Museum of New Mexico System consistently applies best practices to collections preservation and care. As federal and state laws, regulations and policies change so must the MNMS Collections Policy. In 2007 when I was serving as chair of the MNMS Collections Committee it was decided that it was time for the committee to review the policy and update it to reflect recent federal and state laws, executive orders, and American Association of Museums Guidelines.

I would like to take this opportunity to thank MNMS Collections Committee members who provided invaluable input and reviewed numerous drafts. Many thanks to the Museum's Directors: Marsha Bol, Joyce Ice, and Frances Levine; the Curators, Louise Stiver, Tim Rogers, and Christine Mather; the Registrars, Michelle Gallagher Roberts, Debbie Garcia, Anita McNeece and Nelson Foss; Collections Managers Paul Smutko and Wanda Edwards; the Director of Conservation, Mark Mackenzie; and, Eric Blinman, Director of the Office of Archaeological Studies, and legal counsels Mona Valicenti (AGO) and Maggie Coffey-Pilcher (DCA).

Shelby J. Tisdale, Ph.D.
Director, Museum of Indian Arts & Culture
Chair, MNMS Collections Committee, 2007
Chair, MNM Collections Policy Revision, 2007-09

Approved by the Museum of New Mexico Board of Regents

Karen Durkovich, President

7/16/2009
Date